

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

FRANCO P. CERABONA, MD and ANDREW  
MEROLA, MD,

Plaintiff(s),

-against-

MEDLINK SERVICES, INC., MEDLINK  
PARTNERS, LLC, AMRISH PATEL, MALA  
PATEL, and HEMANSHU PATEL,

Defendant(s).

ANSWER

Docket No. 19-cv-03119

JURY TRIAL REQUESTED

Defendants MEDLINK PARTNERS, LLC and AMRISH PATEL (hereinafter collectively referred to as “AMRISH” or “Answering Defendants”), by their attorneys, the VARGHESE & ASSOCIATES and the LAW OFFICES OF JONATHAN M. COOPER., as and for their Answer to Plaintiffs’ Complaint, herein respond as follows:

**NATURE OF THE ACTION**

1. To the extent Paragraph 1 contains Plaintiffs’ characterization of the case that they have filed, no response is required. To the extent that the allegations in Paragraph 1 constitute legal characterizations, no response is required. To the extent a response is required, Answering Defendants deny the allegations contained in Paragraph 1.<sup>1</sup>

2. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required. To the extent a response is required, Answering Defendants deny knowledge or sufficient information to address the allegations contained

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<sup>1</sup> For the Court’s convenience, the paragraphs of this Answer have been numbered to match those set forth in Plaintiffs’ Complaint.

in this paragraph, except admit that defendant Amrish Patel ran and oversaw the day to day operations of defendant Medlink Services, Inc. (“Medlink Services”).

3. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required. To the extent a response is required, Answering Defendants deny knowledge or sufficient information to address the allegations contained in this paragraph, except admit that defendant Amrish Patel ran and oversaw the day to day operations of defendant Medlink Partners, LLC (“Medlink Partners”).

4. Answering Defendants deny knowledge or sufficient information to address the allegations contained in paragraph 4 of the Complaint, except admit that plaintiffs retained Medlink Services to perform various services, and respectfully refer all questions of law to the Court.

5. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required. To the extent a response is required, Answering Defendants deny knowledge or sufficient information to address the allegations contained in this paragraph.

6. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

7. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required. To the extent a response is required, Answering Defendants deny knowledge or sufficient information to address the allegations contained in this paragraph.

8. To the extent that the allegations in this paragraph (and its sub-paragraphs) constitute legal characterizations, no response is required, and Answering Defendants

respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph (and its subparagraphs), except admit that defendant Amrish Patel ran and oversaw the day to day operations of defendants Medlink Partners and Medlink Services.

9. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

10. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

11. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

12. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

13. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.



**THE PARTIES**

14. Answering Defendants deny knowledge or sufficient information to address the allegations contained in paragraph 14 of the Complaint.

15. Answering Defendants deny knowledge or sufficient information to address the allegations contained in paragraph 15 of the Complaint.

16. Answering Defendants deny knowledge or sufficient information to address the allegations contained in paragraph 16 of the Complaint.

17. Answering Defendants deny knowledge or sufficient information to address the allegations contained in paragraph 17 of the Complaint.

18. Answering Defendants admit the allegations contained in this paragraph.

19. Answering Defendants admit the allegations contained in this paragraph.

20. Answering Defendants admit the allegations contained in this paragraph.

21. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph, except admit that defendant Medlink Services, Inc. obtained a National Provider Identifier (“NPI”) number.

22. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph, except admit that defendant Medlink Services, Inc. obtained a National Provider Identifier (“NPI”) number, as called for under applicable rules, regulations and guidelines.

23. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court.

24. Answering Defendants admit the allegations contained in this paragraph.

25. Answering Defendants admit the allegations contained in this paragraph.

26. Answering Defendants deny the allegations contained in this paragraph, except admit that Dr. Merola was a client of Medlink Partners.

27. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph, except admit that defendant Medlink Partners, LLC obtained a National Provider Identifier (“NPI”) number, as called for under applicable rules, regulations and guidelines.

28. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court.

29. Answering Defendants admit the allegations contained in this paragraph.

30. Answering Defendants admit the allegations contained in this paragraph.

31. Answering Defendants admit the allegations contained in this paragraph.

32. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court.

33. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all

questions of law to the Court. Answering Defendants further admit that defendant Amrish Patel ran and oversaw the day to day operations of defendant Medlink Services.

34. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court.

35. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny knowledge or sufficient information to address the allegations contained in this paragraph.

36. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

37. Answering Defendants admit the allegations contained in this paragraph.

38. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court.

39. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny knowledge or sufficient information to address the allegations contained in this paragraph.

40. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

41. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

42. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

#### **JURISDICTION AND VENUE**

43. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

44. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

#### **FACTS COMMON TO ALL COUNTS**

45. Answering Defendants deny knowledge or sufficient information to address the allegations contained in paragraph 45 of the Complaint.



46. Answering Defendants deny knowledge or sufficient information to address the allegations contained in paragraph 46 of the Complaint.

47. Answering Defendants deny knowledge or sufficient information to address the allegations contained in paragraph 47 of the Complaint.

48. Answering Defendants deny knowledge or sufficient information to address the allegations contained in paragraph 48 of the Complaint.

49. Answering Defendants state that in terms of the allegations set forth in this paragraph of the Complaint, the forms speak for themselves, and Answering Defendants deny any allegations that mischaracterize their terms, and refers all legal characterizations to the Court.

50. Answering Defendants state that in terms of the allegations set forth in this paragraph of the Complaint, the forms speak for themselves, and Answering Defendants deny any allegations that mischaracterize their terms, and refers all legal characterizations to the Court.

51. Answering Defendants deny knowledge or sufficient information to address the allegations contained in this paragraph.

52. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court.

53. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

54. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

55. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

56. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

57. To the extent that the allegations in this paragraph (and its sub-paragraphs) constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the material allegations set forth in this paragraph (and its sub-paragraphs), and specifically deny having knowledge or sufficient information to address the allegations as to the patients identified as Patients “A” through “E” set forth herein.

**AS AND FOR A FIRST CAUSE OF ACTION**  
**(FRAUD – Against All Defendants)**

58. Answering Defendants repeat and re-allege their responses to the Complaint set forth elsewhere in this Answer.

59. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all

questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

60. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

61. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

62. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

63. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

64. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

65. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all

questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

66. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

**AS AND FOR A SECOND CAUSE OF ACTION**  
**(CONVERSION – Against All Defendants)**

67. Answering Defendants repeat and re-allege their responses to the Complaint set forth elsewhere in this Answer.

68. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

69. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

70. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

71. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all

questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

72. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

73. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

**AS AND FOR A THIRD CAUSE OF ACTION**  
**(UNJUST ENRICHMENT – Against All Defendants)**

74. Answering Defendants repeat and re-allege their responses to the Complaint set forth elsewhere in this Answer.

75. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

76. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

77. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all

questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

78. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

79. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

**AS AND FOR A FOURTH CAUSE OF ACTION**  
**(BREACH OF FIDUCIARY DUTY)**  
(Against Medlink Services, Inc., Amrish Patel and Mala Patel)

80. Answering Defendants repeat and re-allege their responses to the Complaint set forth elsewhere in this Answer.

81. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

82. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

83. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all

questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

84. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

**AS AND FOR A FIFTH CAUSE OF ACTION**  
**(BREACH OF CONTRACT)**  
(Against Medlink Services, Inc., Amrish Patel and Mala Patel)

85. Answering Defendants repeat and re-allege their responses to the Complaint set forth elsewhere in this Answer.

86. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

87. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

88. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

89. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all

questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

90. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

91. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

92. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

93. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

**AS AND FOR A SIXTH CAUSE OF ACTION**  
**(BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**  
**IN CONTRACT)**

(Against Medlink Services, Inc., Amrish Patel and Mala Patel)

94. Answering Defendants repeat and re-allege their responses to the Complaint set forth elsewhere in this Answer.



95. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

96. To the extent that the allegations in this paragraph constitute legal characterizations, no response is required, and Answering Defendants respectfully refer all questions of law to the Court. To the extent a response is required, Answering Defendants deny the allegations set forth in this paragraph.

**RESPONSE TO PRAYER FOR RELIEF**

Answering Defendants state that the Prayer for Relief sets forth Plaintiffs' requested relief, to which no response is required. To the extent a response is required, Answering Defendants deny that Plaintiffs are entitled to any such relief.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

97. Plaintiffs' complaint fails to state a cause of action upon which relief can be granted against the Answering Defendants.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

98. Plaintiffs' damages, if any, were brought about in whole or in part by the culpable conduct by Plaintiffs, or that of an unnamed third-party, and not by the Answering Defendants, and any such alleged damages should be diminished in accordance with those parties' relative degrees of culpability.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

51. Plaintiffs failed to mitigate their damages.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

52. Plaintiffs' claims are barred, in whole or in part, by the doctrines of waiver, ratification, estoppel, unclean hands and/or laches.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

53. Plaintiffs failed to name a necessary party to this action.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

54. Plaintiffs' claims are barred by the documentary evidence.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

55. Plaintiffs' claims are barred by their own conduct.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

56. The actions and/or omissions complained of were separate, independent, superseding and intervening acts for which the Answering Defendants bear no liability.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

57. Plaintiffs' acts or omissions, breaches of contract, or failure to perform its contractual obligations, including, but not limited to, Plaintiffs' breaches of their obligations to exert best efforts under the subject (alleged) Agreements bar any recovery by Plaintiffs.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE**

58. Principles of equity bar any recovery by Plaintiffs due to Plaintiffs' inequitable conduct.

**AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE**

59. Plaintiffs have suffered no injury.

**AS AND FOR AN TWLEVTH AFFIRMATIVE DEFENSE**

60. Plaintiffs' claims are barred, in whole or in part, by the applicable statute(s) of limitations.

**RESERVATION OF RIGHTS TO ASSERT ADDITIONAL DEFENSES**

61. Answering Defendants reserve the right to assert and rely upon any and all defenses that may be relevant or may become available during this case.

WHEREFORE, Answering Defendants demand judgment dismissing the Complaint, together with the costs and disbursements of this action and for such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
May 29, 2019

Respectfully Submitted,

VARGHESE & ASSOCIATES, P.C.

By: /s/  
Vinoo P. Varghese

-and-

LAW OFFICES OF JONATHAN M.  
COOPER

By: /s/  
Jonathan M. Cooper

